



DELTA LEVEES SPECIAL FLOOD CONTROL PROJECTS

PROJECTS

SOLICITATION PACKAGE

FOR

BULK ACQUISITION OF MITIGATION CREDITS

PROJECT

FINAL

October 26, 2011

Delta Levees Special Flood Control Projects PROJECTS SOLICITATION PACKAGE

The California Department of Water Resources invites eligible applicants to submit a Bulk Acquisition of Mitigation Credits Project proposal under this PSP and under what is referred to as the Near-Term Special Projects Guidelines (referred to in this Solicitation Package as *Guidelines*; <http://www.water.ca.gov/floodmgmt/dsmo/bdlb/spp>).

This solicitation specifically seeks projects that will provide currently available mitigation credits for work conducted under the Delta Levees Program (or any potential successor). In addition, the Bulk Acquisition of Mitigation Credits Project creates a process through which a Delta local agency can acquire regulatory agency-approved mitigation credits from an established mitigation bank in the Delta at an expected lower price per credit than the current market provides. Through this project, DWR anticipates that local agencies can receive mitigation credits that meet their Subventions and Special Project mitigation obligations in a more cost-effective and efficient manner than what is currently available to them.

Up to six million dollars (\$6,000,000) from Proposition 1E and/or Proposition 84 will be made available for this Bulk Acquisition of Mitigation Credits. DWR reserves the right to use its discretion to adjust the funding level. DWR also reserves the right not to award any of these funds if market conditions are unfavorable.

For an electronic copy of this Special Projects Solicitation Package, please go to http://www.water.ca.gov/floodmgmt/dsmo/bdlb/spp/project_solicitation_package.cfm.

PROPOSAL DUE DATE

Wednesday, November 30, 2011

Must be postmarked or hand-delivered by 4:00 pm on this date

PROPOSAL SUBMITTAL

Please submit three hard copies of the proposal to:

Mike Mirmazaheri, Program Manager
Department of Water Resources
Delta Levees Program
1416 Ninth Street, Room 1641
Sacramento, California 95814

Proposals submitted by mail must be postmarked by Wednesday, November 30, 2011.

DWR staff may follow up with applicants to request portions of the materials in the proposal in electronic form. Submittals should be limited to 50 pages.

QUESTIONS OR NEED ASSISTANCE? CONTACT:

Jennifer Hogan, Staff Environmental Scientist
Delta Ecosystem Enhancement Section
Department of Water Resources
(916) 651-7005 jhogan@water.ca.gov

1. Background

Regulatory agencies such as the Department of Fish and Game (DFG), the U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service are increasingly recommending mitigation banking as a tool to address habitat losses that result from new projects, as well as repairs and maintenance to existing facilities. Mitigation banks enable the aggregation of mitigation for smaller environmental impacts into larger mitigation sites to enhance cumulative habitat values. DWR has the responsibility for managing and funding Delta Levees Program (Program)-related projects, and DFG provides environmental oversight for the Program.

On February 16, 2010, the Department of Water Resources (DWR) published the Final Near-Term Guidelines (cited here as the Guidelines) to outline general and specific requirements for Delta Levees Special Flood Control Projects. These Guidelines offer details on the purpose, process and requirements for selecting and funding projects through the Delta Levees Special Flood Control Projects Program (Special Projects). This PSP also provides for meeting the mitigation obligations under the Delta Levees Maintenance Subventions Program (Subventions). All definitions of terms and requirements for projects under the Guidelines apply equally to this PSP. Additionally, the Guidelines provide the definitive requirements over all items covered in this PSP. A copy of the Guidelines is available at <http://www.water.ca.gov/floodmgmt/dsmo/bdlb/spp>.

This PSP describes the application process, timeline, eligibility, ranking, and cost-share criteria for the projects that qualify. If this PSP does not cover requirements discussed in the Guidelines, the applicant is still required to perform per the Guidelines.

Bulk Acquisition of Mitigation Credits described in this PSP seeks to expedite the required mitigation for habitat losses resulting from levee maintenance and repairs to comply with Subventions and Special Projects statutes (California Water Code §§12314(d) and 12987(d)). This PSP is intended to provide high quality, biologically-productive mitigation credits for current to near-term projected levee maintenance, repair, and improvements that are conducted through the Program.

2. Eligible Applicants

DWR seeks applications from local agencies participating in the Program that will then team with qualified Bank Sponsors¹ with an approved and functioning mitigation bank. Together the Lead Local Agency-Bank Sponsor Team (Team) must demonstrate its ability to provide habitat credits and oversee the utilization by other local agencies, consistent with the requirements of the Program.

3. Available Funding

This PSP solicits proposals for up to \$6 million to meet mitigation and habitat requirements for the Program. All appropriate expenditures are subject to the approval by the Director of DWR or his representative. Funding is available for Bulk Acquisition of Mitigation Credits. These funds are intended for mitigation bank opportunities that provide cost-effective and time-efficient mitigation credits to meet the requirements of the Program.

4. Eligible Project Configuration

Mitigation credits will be purchased through the Program to compensate for habitat impacts from work performed under both Special Projects and Subventions. To successfully carry out these purchases of credit, a Project Funding Agreement (PFA) will be established between a qualified local agency and DWR to procure regulatory agency-approved² mitigation credits from an established mitigation bank for defined Program habitats (Exhibit A). A secondary component to the project is to set in place the process for administering the sale of those mitigation credits to local agencies participating in the Delta Levees Program.

Roles and Responsibilities

A Lead Local Agency is defined for the purposes of this project as any local agency participating in the Program that has a working relationship with a Delta Bank Sponsor and is willing to take on an administrative role for the entirety of this project. The Lead Local Agency will contract with a Bank Sponsor to supply (with the oversight of DFG and DWR) valid, verifiable, and acceptable (to DFG) mitigation credits to local agencies

¹ The Bank Sponsor is responsible for establishing and operating a mitigation bank.

² DFG must be a signatory to the established bank.

participating in the Program and seeking available credits³. The basic roles and responsibilities are described below and are illustrated with an example scenario in Exhibit B.

Lead Local Agency:

- Maintains a contractual relationship through a PFA with DWR until all mitigation credits purchased through the Bulk Acquisition of Mitigation Credits are sold;
- Develops and maintains a contractual relationship with a Bank Sponsor for Program mitigation credits⁴;
- Manages all fiscal, recordkeeping, and reporting aspects of the bulk acquisition of mitigation credits (many of the specific activities could be carried out by the Bank Sponsor under contract with the Lead Local Agency);
- Releases funds received from the Program to the Bank Sponsor upon DFG written notification of mitigation credit approval;
- Manages the mitigation credit and fund transfers between the Program, mitigating local agencies and Bank Sponsors;
- Works with the Bank Sponsor, documenting all mitigation bank transactions and provides quarterly reports to DFG and DWR until all credits are sold or contract ends; and
- Provides a final report summarizing entire project.

Bank Sponsor:

- Develops and maintains a contractual relationship with the Lead Local Agency;
- Verifies established habitat types at the Bank property site, and states in writing that requested credits are reserved and allocated specifically for the Program;
- Provides a schedule of release of credits;
- Provides Bills of Sale to mitigating local agencies once notification is received from DFG and receipt of funds from both Lead Local Agency and the mitigating local agency for full purchase price of credits;

³ Local Agencies may satisfy their mitigation credit requirements through other avenues that are also approved by DFG.

⁴ Following the Local Agency's competitive bidding process typical of Special Projects and Subventions (California Public Contract Code (CPCC) §20923).

- Follows all the conditions in the approved Bank Enabling Instrument (BEI), including providing the financial obligations that are required for the long-term management of the habitat types in perpetuity;
- Works with the Lead Local Agency, documents all mitigation bank transactions and provides quarterly reports to DFG and DWR until all credits are sold or contract ends; and
- Provides a final report summarizing entire project.

Types and Amount of Credits

The Program seeks to acquire available mitigation credits based on current outstanding mitigation needs and projected Program environmental impacts over the next couple of years. If applicable, the mitigation credits can be acquired from more than one bank.

Based on DWR Staff analysis and a report funded through the Program in 2009, the types and amount of credits sufficient to supply a portion of the projected mitigation needs include the following:

Shaded Riverine Aquatic: 4,000 linear feet
 Riparian Forest: 50 credits
 Scrub-Shrub: 38 credits
 Freshwater Marsh: 2.5 credits

Only created habitat types (versus preserved)⁵ will qualify as eligible mitigation credits.

Location of Mitigation Banks

A mitigation bank located in the legal Delta with an approved service area of the legal Delta, as defined in its BEI, is acceptable. Habitat-type impacts in Suisun Marsh must be mitigated in the Marsh, unless special approval is made by DFG. (These circumstances will be addressed on a case-by-case basis by DFG.)

Costs and Financial Considerations

After selection and approval, Special Projects funds will be awarded to the Lead Local Agency for the bulk acquisition of mitigation credits and associated costs, including any deposit to secure credits (if needed), costs to administer transactions, reporting and recordkeeping.

⁵ Per Army Corps of Engineering standard mitigation banking terms definitions.
 (<http://www.saw.usace.army.mil/wetlands/Mitigation/definitions.html>)

Bank Enabling Instrument Requirements

- The proposed mitigation bank must have a regulatory agency-approved⁶ and fully executed BEI;
- The proposed mitigation bank's habitat types to be provided to the Program must meet the growth, quality, and survivability requirements as defined by DFG;
- The BEI must demonstrate that appropriate construction and performance security analyses and scheduling elements are complete, and include Interim and Long-term Management Plans;
- The BEI must demonstrate that the mitigation bank has clear title and full control of the Bank property, including mineral rights (*i.e.*, the title has no encumbrances or restrictions that may adversely affect Bank habitat in the future);
- The mitigation bank must provide a recorded Conservation Easement to an appropriate non-profit or governmental agency; and
- The mitigation bank must provide for a fully funded endowment for long-term sustainability and management.

Elements for Bulk Acquisition of Mitigation Credits

While a range of options is available to secure these mitigation credits, the following procedural elements will be included in all acquisitions of credits.

- After reviewing applications, DWR will select one or more qualified local agencies that can demonstrate a working relationship with an established Bank Sponsor, which has control over regulatory agency-approved mitigation credits that can be offered for the Program. A Letter of Agreement signed by the proposed Lead Local Agency and its partnering Bank Sponsor will act as an appropriate demonstration of this relationship;
- Successful Lead Local Agencies will execute a PFA with DWR;
- Following the required public contract solicitation, the Lead Local Agencies will negotiate and execute a contract with the selected Bank Sponsor(s), outlining the cooperative relationship;
- DWR will advance the funds to the Lead Local Agencies for a portion or the entire bulk acquisition of credits at a fixed unit price (variable by credit type). DFG will determine the quantity and type of mitigation required by each local

⁶ DFG must be a signatory to the established bank.

agency requiring Program mitigation credits. The local agencies may choose to purchase credits at the approved mitigation bank and seek concurrence from DFG before making the purchase. DFG will notify the mitigating local agency, Lead Local Agency and DWR of credit purchase approval and direct the release of the credit;

- After the mitigating local agencies receive approval from DFG to purchase credits from the bank, the local agency will send funds for the appropriate cost share amount⁷ of the total credit price to the Bank Sponsor. DFG will also notify the Lead Local Agencies that a release of credits has been authorized and instruct the Lead Local Agencies to release the balance of the credit purchase price to the Bank Sponsor; and
- The Bank Sponsor will prepare the Bill of Sale for the approved credits. Copies of the Bill of Sale will be provided to the mitigating local agencies, DFG, and DWR. The mitigating local agencies will then receive full credit for mitigation. The mitigation will be recorded and appropriate reporting will be undertaken as part of the project's recordkeeping.

Based on these elements, applicants may propose a process designed to work best for their Team. An example scenario and graphic are included in Exhibit B to provide an illustration of a basic scenario to fulfill these requirements.

5. Application and Selection Process

Applications must be submitted (either in person, by courier, or postmarked) by 4:00 p.m. on Wednesday, November 30, 2011. Project proposals that do not meet this deadline will not be accepted or reviewed for this PSP. DWR will consider proposals from only the local agencies that are in good standing and with no outstanding obligations to DWR or DFG. DWR will review all timely submittals for completeness. DWR may contact applicants whose proposals are substantially complete but missing some items. If a potential Lead Local Agency is contacted by DWR with a request for more information, it will be given a limited time to provide all that was requested. Complete applications will be reviewed to determine whether they meet the general requirements and the project eligibility criteria.

Once applications are deemed complete and eligible, they will be ranked using the eligibility criteria provided (see *Ranking* section below). Funding of proposals is subject

⁷ The project cost share for Local Agencies mitigating for work done under Subventions is 25%. For Special Projects, the Local Agency cost share amount will be based on the State cost share as stated in the agreement for the particular project that resulted in the mitigation requirement.

to availability of funds. After the highest ranked proposals are selected and the available funds are committed, DWR will issue tentative award letters to successful Applicants. Successful Applicants must return the signed agreement with DWR within 30 days of receipt of the PFA and before any funds will be disbursed.

DWR will issue tentative award letters in December 2011. DWR will proceed with the formulation of the PFA(s). Once the PFA(s) is fully executed, the Lead Local Agency(ies) will submit a Scope of Work to DWR.

Consistent with the Guidelines, DWR at its discretion may issue additional PSPs or use Direct Expenditures (aka Directed Activities) to fund Bulk Acquisition of Mitigation Credits consistent with Program needs. DWR's discretion includes the right to reject project proposals under this PSP, if they do not adequately meet the criteria of the Bulk Acquisition of Mitigation Credits PSP.

Eligibility Requirements

All complete applications must generally meet the eligibility criteria for projects described in the Guidelines. For this solicitation, the applicant should address each of the eligibility requirements identified below and within the Ranking Criteria tables (Table 1). The potential Lead Local Agency should demonstrate its eligibility through the following:

- A statement of eligibility to participate in the Program, *i.e.*, Lead Local Agency must meet the criteria outlined in the California Water Code §§ 12980-12995 and 12300-12318 (provided by the potential Lead Local Agency);
- A resolution from the Lead Local Agency board of trustees authorizing the potential Lead Local Agency to participate in the project (provided by the potential Lead Local Agency);
- A brief description of the ecosystem benefits provided by the proposed Bank, including the degree to which the proposed Bank may have restored natural hydrologic regimes and contributed to landscape-level conservation efforts. The description should tie the bank to the larger ecological picture in the Delta (provided by the partnering Bank Sponsor);
- A statement by one or more Bank Sponsors documenting the availability of the appropriate quantities and types of habitat credits for sale acceptable to DFG as satisfactory for the Program, and that specified credits are located within the legal Delta (provided by the partnering Bank Sponsor);

- A description of the administrative/management costs for the Lead Local Agency to manage the sale of bank credits and any costs to secure the credits should be provided for DWR's administrative record. Quantity, type and per credit price for credits to be sold in bulk should be described. Price should be specific for each Program habitat type in the quantity stated in the *Types and Amounts of Credits* section in this solicitation. All costs associated with the creation of mitigation credits should be reflected in the total credit cost (provided as one description by both the potential Lead Local Agency and the partnering Bank Sponsor);
- A description of the project that adequately describes the process for undertaking a bulk mitigation credit sale, including the plan for flow of funds for the purchase of mitigation credits from DWR to the Lead Local Agency, then to the Bank Sponsor. The description should include a plan to track credits among multiple mitigating local agencies (provided as one description by both the potential Lead Local Agency and the partnering Bank Sponsor);
- A description of the proposed structure and capacity of the relationship between the Lead Local Agency and Bank Sponsor to undertake a bulk acquisition of mitigation credits and subsequent distribution of credits from an operational mitigation bank should be provided. The description should include anticipated roles and responsibilities in carrying out the administration and sale of credits, accounting for and tracking credits from DFG approvals among multiple local agencies, reporting to DWR on costs associated with this project, and executing Bills of Sale to multiple mitigating local agencies (provided as one description by both the potential Lead Local Agency and the partnering Bank Sponsor); and
- Include a signed BEI and associated Exhibits with the proposal (provided by the partnering Bank Sponsor).

Ranking

Following submittal, the application will be evaluated and ranked by a ranking group, which includes members from both DWR and DFG, based on the following ranking criteria. Applicants must offer the necessary information for the evaluation of their proposal under each criterion. Staff reviews will allocate points up to the maximum values based on the degree to which applications address specified criteria. DWR retains discretion to check the reasonableness and accuracy of submitted materials and reserves the right to deny proposals that do not adequately meet the requirements of California Water Code §§ 12980-12995 and 12310-12318, the Guidelines, and this PSP.

Table 1: Bulk Acquisition of Mitigation Credits Ranking Criteria

Criteria (as stated in the Eligibility Requirements Section)	Scoring breakdown	Notes
<p>Habitat Goals or Targets</p> <p>A statement by one or more Bank Sponsors documenting the availability of the appropriate quantity and type of habitat credits for sale acceptable to DFG as satisfactory for the Program, and that specified credits are located within the legal Delta.</p>	<p>Score from 0 – 20</p> <p>20= Demonstrated availability of all quantity and type of habitat credits for sale approved by DFG (Exhibit A). A description is provided for the relationship of this project to other existing or emerging Delta-wide restoration plans.</p> <p>0= Credits for sale are below minimum quantity or type of habitat credits do not directly match Program habitat types. A description is provided for the relationship of this project to other existing or emerging Delta-wide restoration plans, but is poorly described.</p>	<p>This criterion evaluates the types, location and availability of habitat credits the project will provide. The proposal describes the project's relationship to other existing or emerging Delta-wide restoration plans. Service area for credits must be in the legal Delta. Program habitat types are described in Exhibit A.</p>
<p>Ecosystem Benefits</p> <p>A description of the ecosystem benefits is provided by the proposed Bank, including a brief description on how the Bank may restore natural hydrologic regimes and contribute to landscape-level conservation efforts.</p>	<p>Score from 0 - 20</p> <p>20= Proposal describes how, on a landscape-scale, ecological benefits are provided by the Delta mitigation bank. The proposal describes how the bank improves habitat impacted by levee work funded by the Program. The proposal describes how the bank contributes to restoring hydrologic regimes.</p> <p>0 = Proposal does not fully describe how the project, on a landscape-scale, demonstrates ecological benefits by the mitigation bank to improve habitats impacted by levee work funded by the Program. Project description does little to show how it contributes to restoring hydrologic regimes.</p>	<p>This criterion evaluates the extent to which the project provides ecological benefits, including but not limited to opportunities to improve habitats impacted by levee work funded by the Delta Levees Program, provide landscape-scale approach, and restore natural hydrological regimes.</p>

<p>Approach and Feasibility</p> <p>A description of: The administrative/management costs for the Lead Local Agency to manage the sale of bank credits and any costs to secure the credits for DWR's administrative record. Quantity, type and per credit price for credits to be sold in bulk. Price for each Program habitat type in the quantity described in the <i>Types and Amounts of Credits</i> section. All costs associated with the creation of mitigation credits reflected in the total credit cost.</p>	<p>Score from 0 - 20</p> <p>20= The description of the proposed approach to the administration of the project is feasible based on the best available information provided. Detailed description of administrative and management costs to run the project are provided and are clearly reasonable. Per-credit price is specified for each Program habitat type (Exhibit A) in the quantity described in this solicitation package.</p> <p>10= The description of the proposed approach to the administration of the project is shown to be feasible. Some detail of administrative and management costs are provided and show reasonable potential. The per-credit price is specified for each Program habitat type.</p> <p>0= The description of the proposed approach to the administration of the project is shown to be potentially infeasible. Detail of administrative and management costs to run program is poorly provided. Costs do not appear reasonable. The per-credit price is not specified for each Program habitat type in the quantity described in this solicitation package.</p>	<p>This criterion evaluates the proposed approach to the administration of the project, including bulk mitigation credit administrative and management costs.</p>
<p>Project description</p> <p>A description of the project includes: The process for undertaking a bulk credit sale, including the plan for flow of funds for the purchase of mitigation credits from DWR to the potential Lead Local Agency, then to the Bank Sponsor and a plan to track credits among multiple mitigating local agencies.</p>	<p>Score from 0 - 20</p> <p>20= Well-defined project description that adequately describes the process for undertaking a bulk credit sale, including the plan for flow of funds for the sale of mitigation credits from DWR to the potential Lead Local Agency, then to the Bank Sponsor and the plan to track credits among multiple mitigating local agencies.</p> <p>10= Moderately defined project description that adequately describes the process for undertaking a bulk credit sale, including the plan for flow of funds for mitigation credits from DWR to the potential Lead Local Agency, then to the Bank Sponsor, including flow of funds from DWR to Bank Sponsor and the ability to track credits among multiple mitigating local agencies.</p> <p>0= Poorly defined project description that should describe the process for undertaking a bulk credit sale program, but contains an unclear description of the plan for flow of funds for mitigation credits, and how credits are tracked among multiple Local Agencies.</p>	<p>This criterion evaluates the completeness in describing the process for undertaking the bulk mitigation credit sale project.</p>

<p>Technical Capacity and Resources</p> <p>A description of the project includes: The proposed structure and capacity of the relationship between the Lead Local Agency and Bank Sponsor to undertake a bulk acquisition of existing credits and subsequent distribution of credits from an operational mitigation bank. The anticipated roles and responsibilities in carrying out the administration and sale of credits, accounting for and tracking credits from DFG approvals among multiple mitigating local agencies, reporting to DWR on costs associated with this project, and executing Bills of Sale to multiple mitigating local agencies.</p>	<p>Score from 0 - 20</p> <p>20= Lead Local Agency and Bank Sponsor roles and responsibilities are clearly defined. Qualifications, relevant experience of the Team's staff members are provided, and the applicant has provided a Letter of Agreement, demonstrating the Team's willingness to work together. Technical resources are shown to be available to complete the project.</p> <p>0= Lead Local Agency and mitigation bank roles and responsibilities are not clearly defined. Qualifications, relevant experience of the Lead Local Agency's staff members are poorly described. A Letter of Agreement has not been provided by the applicant. Technical resources available to complete the project are poorly described.</p>	<p>This criterion evaluates the technical resources of the proposed Team. This includes mitigation banking experience and partnering abilities.</p>
<p>Project Performance and Adaptive Management</p> <p>A copy of the signed BEI and associated Exhibits is included.</p>	<p>Score from 0 - 20</p> <p>20= The mitigation bank has met the requirements for past credit releases, monitoring, and reporting as required in the bank's BEI.</p> <p>0= The bank cannot provide evidence that it has met the requirements for past credit releases, monitoring, and reporting as required by the bank's BEI.</p>	<p>This criterion evaluates the quality and completeness of the Bank Enabling Instrument (BEI).</p>

Anticipated Schedule

The following is the anticipated schedule for the application and review process:

July 20, 2011 – August 18, 2011	Public Review and comment period for Draft Bulk Acquisition of Mitigation Credits Solicitation package (30 days)
August 23, 2011	Public Meeting in Walnut Grove, CA
October 25, 2011	Release final PSP for Bulk Acquisition of Mitigation Credits PSP
November 30, 2011	Proposals due by 4:00 p.m. (or postmarked)
December 2011	DWR notifies local agencies of funding decisions.

6. Preparing the Proposal

Applicants must include the following when submitting a project proposal. Refer to the *Eligibility Requirements* section and Ranking Table for details on requested information and include them in the application. Applicants with questions about what to provide should consult with DWR⁸.

- An application cover sheet that provides an overview of the project;
- A statement of eligibility to participate in the Program, *i.e.*, Lead Local Agency must meet the criteria outlined in the California Water Code §§ 12980 through 12995 and 12300 through 12318;
- A description of how the project will meet the requirements of Water Code § 12314, which require no net long-term loss of habitat and net habitat improvement;
- A resolution from the Lead Local Agency board of trustees authorizing the potential Lead Local Agency to participate in the project;
- A statement identifying the Applicant's representatives;
- Local Agency Information (Exhibit C);

⁸ Typical DWR FloodSAFE projects require an economic justification. Projects eligible under the Near-term Guidelines, however, do not need to provide any economic justification, since the California Water Code includes specific mandates for the Delta Special Projects Program.

- A Resolution signed by the Local Agency designating a representative to sign the application, authorizing: the submission of the application and entrance into a contract with the State of California, and implementing a Bulk Acquisition of Mitigation Credit project (Exhibit D). Include the local cost share, if appropriate;
- A description of the ecosystem benefits provided by the proposed Bank;
- A statement by one or more Bank Sponsors documenting the availability of the appropriate quantities and types of habitat credits for sale acceptable to DFG as satisfactory for the Program, and that specified credits are located within the legal Delta;
- A description of the administrative/management costs for the Lead Local Agency to manage the sale of bank credits and any costs to secure the credits;
- A description of the project that adequately describes the process for undertaking a bulk credit sale;
- A description of the proposed structure and capacity of the relationship between the Lead Local Agency and Bank Sponsor to undertake a bulk acquisition of existing credits and subsequent distribution of credits from an operational mitigation bank; and
- A copy of the signed BEI and associated Exhibits is to be included.

7. How to Submit a Proposal

Below are requirements for submitting the project proposal application package. If an item does not appear to apply, provide complete justification for not providing the information.

- Three copies of the complete application package are submitted in person or postmarked by the deadline.
- Append all required Exhibits and other submitted material.
- Plans and other graphic material are submitted full size.
- All attachments are completely legible and suitable for copying.

8. Conflict of Interest and Confidentiality

All participants are subject to State and Federal conflict of interest laws. Failure to comply with these laws, including business and financial disclosure provisions, will result in the application being rejected and any subsequent contract being declared void. Other legal action may also be taken. Applicable statutes include, but are not limited to, Government Code Section 1090, and Public Contract Code §§ 10410-10411.

Applicants should note that by submitting an application, they will waive their rights to the confidentiality of that application, though DWR staff will endeavor to keep all applications confidential until project selection. After the projects are selected, all applications (those selected *and* those not) will be public documents.

Exhibit A

Delta Levees Program Habitat Types

Shaded Riverine Aquatic (SRA) Habitat - is characterized by woody shoreline vegetation which overhangs the water's edge. Within the Delta, the woody vegetation component of SRA is most often provided by willows, alders, box elders, and cottonwoods. Shade provides cover for fish and wildlife and moderates high temperatures.

Riparian Forest (RF) Habitat – is characterized by woody vegetation (trees greater than 20 feet in height) that may or may not overhang the water's edge. The most common trees in the Delta included cottonwood, sycamore, alder, Oregon ash, willows, box elder, black walnut and various oaks. RF habitat provides food, cover, nesting, and roosting places for many birds, including hawks, owls, herons, egrets, wood ducks, woodpeckers, flickers, and numerous passerine species and can provide an important movement corridor for wildlife.

Scrub-shrub (SS) Habitat – is a stand of woody vegetation less than 20 feet in height. The various tree species that make up SS are generally the same as for RF, although in most instances alders and or willows are the dominant plants. SS also include such species as California blackberry, California wild rose, and coyote brush. Habitat value for fish and wildlife tends to increase with density and diversity of vegetative structure.

Freshwater Marsh (FM) Habitat - is a relatively shallow aquatic area, usually less than about 4.5 feet deep, where emergent plants are growing. In the Delta, freshwater marsh occurs in non-tidal or tidal regimes. The most common plants are tules, bulrushes, and cattails. Plant biomass and productivity is frequently high in freshwater marshes. Many resident and freshwater fish (e.g., various minnows including Sacramento Splittail and juvenile salmonids) use tidally-influenced FM for cover from predators and feeding areas.

Exhibit B: Example - Process Scenario for the Bulk Acquisition of Credits

The Lead Local Agency will receive Program funding for the total transaction costs for acquiring existing mitigation credits in bulk. Upon notification from DFG that the mitigating local agency is authorized to purchase credits of the specific habitat types at the approved mitigation bank, the Lead Local Agency will release these funds in increments to the Bank Sponsor. Under the Subventions Program, funds released by the Lead Local Agency total 75% of the cost of required credits and are paid to the Bank Sponsor. The balance of funds (25%) will be paid by the mitigating local agency to the Bank Sponsor. For Special Projects, the local agency cost share amount will be based on the State cost share as indicated in the agreement for the particular project that resulted in the mitigation requirement.

Once the Bank Sponsor receives 100% of the cost of a particular credit, the Bank Sponsor prepares a Bill of Sale, which will be provided to the mitigating local agency, with copies sent to the Lead Local Agency, DFG, and DWR. The Bank Sponsor may oversee all communication requirements and keep track of all transactions, depending on the scope of its agreement with the Lead Local Agency. Otherwise, the banker ensures that the elements of the BEI are current and the quality of the habitat types meets the Program's standards.

Figure 1: Bulk Acquisition of Mitigation Credits
Possible Subventions Scenario

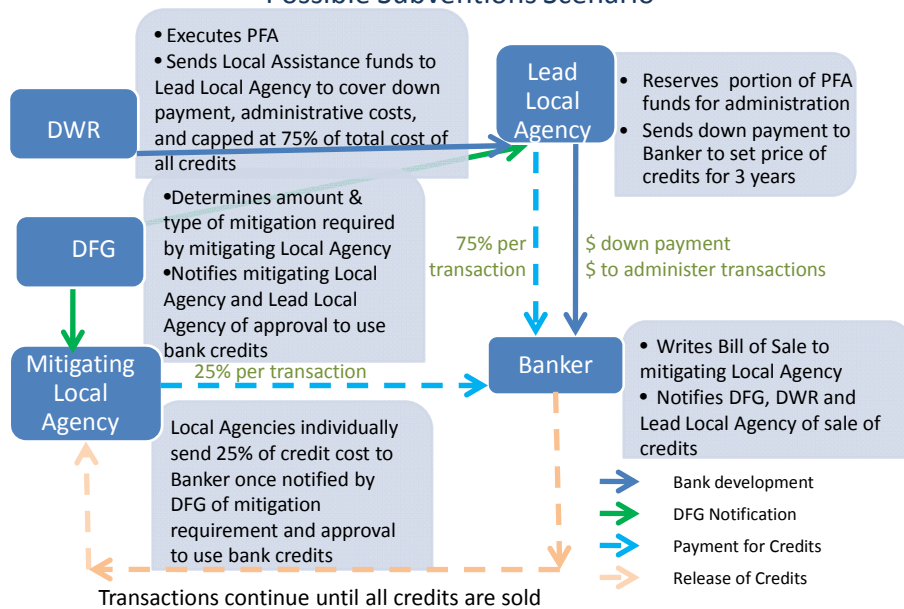


Exhibit C: Local Agency Information

Title of Project :

Short Description :

Applicant Agency

Legal Name:

Mailing Address:

City, State, Zip Code:

Telephone: ()

Fax: ()

E-Mail:

Authorized Representative

Name:

Title:

Telephone: ()

Fax: ()

E-Mail:

Alternate Contact

Name:

Title:

Telephone: ()

Fax: ()

E-Mail:

**Cities/Communities Protected
by District Levees:**

County :

Members of Congress

Name, District No.:

Name, District No.:

State Senators

Name, District No.:

Name, District No.:

Members of the State Assembly

Name, District No.:

Name, District No.:

Exhibit D:
Resolution No. _____

Resolved by the _____ of the
(Name of Agency's Governing Body)

(Name of Agency)

That pursuant to and subject to all of the terms and provisions of California Public Resources Code Section 5096.21 and/or 75030 application by this _____
(Type of Agency)

be made to the California Department of Water Resources to obtain funding for

(Project Title)

The _____ of the
(Authorized Representative)

_____ **is hereby authorized and directed**
(Type of Agency)

to prepare the necessary data, make investigations, sign certifications required as part of the application, and sign and file such application with the California Department of Water Resources.

***Passed and adopted* at the regular meeting of the**

_____ **of the**
(Name of Agency's Governing Body)

(Name of Agency)

on _____
(Date)

Authorized Signature _____

Printed Name _____

Title _____

Clerk/Secretary _____